

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Rulemaking by the Department of Telecommunications and Energy,)	
pursuant to 220 C.M.R. §§ 2.00 et seq., to promulgate regulations to)	
establish a funding mechanism for wireline Enhanced 911 services,)	D.T.E. 03-24
relay services for TDD/TTY users, communications equipment)	
distribution for people with disabilities, and amplified handsets at)	
pay telephones, as 220 C.M.R. §§ 16.00 et seq.)	
)	

**THE ATTORNEY GENERAL’S MOTION FOR LEAVE
TO FILE SUPPLEMENTAL REPLY COMMENTS
REGARDING A 1999 VERIZON AUDIT**

The Attorney General, pursuant to 220 C.M.R. §§ 1.04(5), 1.06(6)(a), (b), and 2.05(2), moves that the Department of Telecommunications and Energy (“Department”) permit the Attorney General to file the enclosed Supplemental Reply Comment regarding a 1999 Verizon E911 audit. As grounds for this Motion, the Attorney General asserts good cause exists for filing the additional comments because: (1) Verizon did not disclose the existence of the 1999 audit, and the Company’s reliance on this audit to persuade the Department not to investigate the Company’s existing E911 deficit, until its May 9, 2003 reply comments; and (2) Verizon failed to disclose in its Reply the full extent of the audit and note its limited application.

I. STANDARD OF REVIEW

The Department must consider all relevant matter presented to it before adopting or amending any regulations. 220 C.M.R. §2.05(2). In reviewing a request to submit additional filings, the Department will consider whether the requesting party has filed a proper motion. 220 C.M.R. § 1.04(5); D.T.E. 01-20 (Part A), *Verizon’s Unbundled Network Elements*, Hearing

Officer Ruling on Unauthorized Response Comments, p. 2 (April 2, 2003). The presiding hearing officer will “make all decisions regarding the admission or exclusion of evidence or any other procedural matters” and “address any procedural matters that will aid in the orderly disposition of a case.” 220 C.M.R. §§ 1.06(6)(a), (b)(1). The hearing officer retains jurisdiction to revise any schedule after notice to all parties. 220 C.M.R. § 1.06(6)(b)(2).

II. ARGUMENT

The limited extent of the 1999 audit is relevant matter which the Commission must consider before adopting or amending any E911 funding regulation, as explained more fully in the Supplemental Reply Comment. 220 C.M.R. §2.05(2). The Department did not provide for supplemental reply comments in its March 13, 2003 Order and Request for Comments.¹ Good cause exists for the Department to permit this Supplemental Reply Comment because: (1) Verizon relies heavily on the existence of the 1999 audit to contend that no further examination of its existing E911 deficit is necessary (*See* Verizon Reply Comment, pp. 2, 5, and 10); (2) Verizon did not mention the existence of the audit in this case until the Company filed its reply comment, affording parties no opportunity to comment on the audit or respond to Verizon’s characterization of the audit; (3) the 1999 audit covers only three years of E911 deficit data and not 1994 or 1998-2002 data, which are part of the reason for the Department’s rulemaking and proposed regulations; and (4) the Department never approved the 1999 audit or the Telesector Resources Group (“TRG”) subsidiary allocations contained within the audit.

¹ The Department has discouraged parties from submitting unauthorized filings. D.T.E. 01-20 (Part A), *Verizon’s Unbundled Network Elements*, Hearing Officer Ruling On Unauthorized Response Comments (April 2, 2003); D.T.E. 01-70, *Complaint of Fiber Technologies Networks, L.L.C.*, Interlocutory Order, p. 3, n. 4 (December 24, 2002).

This Motion and the accompanying Supplemental Reply Comment will not prejudice the rights of Verizon or other interested parties in this rulemaking proceeding because they may be afforded an opportunity to respond to this Motion. This Motion does not jeopardize the rights of the Company or other parties in presenting their positions on the appropriateness of the audit or the propriety of the TRG and other subsidiary allocations because the Department has not yet determined the procedures it will follow in setting the actual interim and final E911 wireline surcharge amount. Furthermore, this Motion is timely because it follows the Company's reply comment by 11 days and the Department has not yet issued its decision on the rulemaking or begun the subsequent ratemaking proceeding.

III. CONCLUSION

For these reasons the Department should permit the Attorney General to file the enclosed Supplemental Reply Comments.

Respectfully submitted,

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Dated: May 20, 2003

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I hereby certify that I have this day served the foregoing document upon each person designated below by e-mail and either hand-delivery or mail.

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